



Leicester
City Council

Minutes of the Meeting of the
LICENSING (HEARINGS) SUB-COMMITTEE

Held: WEDNESDAY, 7 DECEMBER 2022 at 9:30 am

P R E S E N T:

Councillor Byrne (Chair)

Councillor Cank

Councillor Whittle

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12. APPOINTMENT OF CHAIR

Councillor Byrne was appointed as Chair for the meeting.

13. APOLOGIES FOR ABSENCE

There were no apologies for absence.

14. DECLARATIONS OF INTEREST

There were no declarations of interest made.

15. MINUTES OF PREVIOUS MEETING

RESOLVED:

That the minutes of the meetings held on 12th July 2022, 20th July 2022 and 18th August 2022 be confirmed as the correct record.

16. REVIEW OF AN EXISTING PREMISES LICENSE - ABU DANIEL

The Director of Neighbourhood and Environmental Services submitted a report on an application for the review of an existing premises licence for Abu Daniel, Belgrave House, 161 Belgrave Gate, Leicester LE1 3HS.

Mr Mohammad Attuf, Premises License Holder (PLH) was present. Chris White and Vandana Lad from the Noise and Pollution team were present. Also present was the Licensing Team Manager (Policy and Applications) and the Legal Adviser to the Sub-Committee.

The Licensing Team Manager (Policy and Applications) presented the report and outlined details of the application. It was noted an application was received on 13 October 2022 from the Noise Team for a review of the existing premises licence for Abu Daniel. The application was made on the grounds of the prevention of public nuisance. The Noise Team were concerned that the premises had caused nuisance to nearby residential properties by playing amplified music and that due to the open front of the premises the nuisance cannot be limited.

Mr White was given the opportunity to outline the details of the report from the Noise and Pollution Team, in support of the representation and answered questions from Members.

Mr Attuf was given the opportunity to address the Sub-Committee and answered questions from the Noise and Pollution Officer's and Members.

All parties present were then given the opportunity to sum up their positions and make any final comments.

The Sub-Committee received legal advice from the Legal Adviser to the Sub-Committee in the presence of all those present and were advised of the options available to them in making their decision. The Sub-Committee were also advised of the relevant policy and statutory guidance that needed to be taken into account when making their decision.

In reaching their decision, Members felt they should deliberate in private on the basis that this was in the public interest, and as such outweighed the public interest of their deliberation taking place with the parties represented present, in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

The Chair announced that the decision and reasons would be announced in writing within five working days. The Chair informed the meeting that the Legal Adviser to the Sub-Committee would be called back to give advice on the wording of the decision.

The Chair then informed the meeting that all but the Democratic Support Officers should withdraw from the room. The Sub-Committee then deliberated in private to consider their decision.

In reviewing the Premises Licence the Sub-Committee considered the Licensing Officer's Report and all the representations, both written and oral. The Sub-Committee took account of the Statutory Guidance, the Regulators' Code, and the Council's Licensing Policy.

The Sub-Committee recalled the Legal Adviser to the Sub-Committee to give advice on the wording of the decision.

RESOLVED:

It was appropriate for the promotion of the licensing objective of the prevention of public nuisance that the premises license for

Abu Daniel, Belgrave House, 161 Belgrave Gate, Leicester LE1 3HS be amended to remove the following licensable activities and add an additional condition.

Removed Licensable Activities

1. The performance of plays (indoors and outdoors);
2. The provision of indoor sporting events;
3. The playing of recorded music (indoors and outdoors)
4. The provision of entertainment of a similar description to that falling within a performance of live music
5. Any playing of recorded music or a performance of dance (indoors and outdoors).

Additional Condition

1. No live music or recorded music, whether amplified or not, shall be played at the premises between 10pm and 11pm daily. This condition has been added under s177A(4) of the Licensing Act 2003 on review of the Licence so that the exemption otherwise detailed in s177A(1) & (2) does not apply.

REASONS FOR THE DECISION

Members were concerned at the statutory nuisances witnessed by the Noise Team and noted in particular that this was on occasion witnessed in another street to the location of the premises. Mr Attuf had been warned by the Noise Team but the noise nuisance continued. Members feel it appropriate in those circumstances to remove the requested licensable activities from the Licence.

In noting that no complaints have been made earlier than 10pm, Members did not find it appropriate to disapply the Live Music Act 2012 exemption in its entirety by condition on the Licence. Rather it has been disapplied only in so far as is appropriate to reflect the timings when complaints had been made.

Moving forward, Members made it clear that in the event further nuisance continues, they would anticipate that the matter would be referred again for further review of the Licence. Equally, Members would hope that Mr Attuf will be able to work with the Noise Team. In that event, it may be as time progresses, in the absence of any further complaints, that Mr Attuf may be able to successfully apply for variation of the Licence to reintroduce some of the licensable activities.

17. APPLICATION FOR A NEW PREMISES LICENCE - GAMBLING ACT 2005

The Director of Neighbourhoods and Environmental Services submitted a

report that required Members to determine an application for a new premises licence under the Gambling Act 2005 for Merkur Slots, 6 Haymarket, Leicester.

Gill Clulow, Nigel Davis and Wanda Kidd were present representing Merkur Slots, accompanied by their Barrister Philip Kolvin KC. Also present was the Licensing Team Manager (Policy and Applications) and the Legal Adviser to the Sub-Committee.

The Licensing Team Manager (Policy and Applications) presented the report and outlined details of the application. It was noted that a representation was received on 29th September 2022 from an interested party. The representation related to the prevention of gambling being a source of crime or disorder, being associated with crime or disorder or being used to support crime. Also ensuring that gambling is conducted in a fair and open way and the protection of children or other vulnerable persons from being harmed or exploited by gambling.

A second representation was received from an interested party on 29th September 2022. The representation related to the prevention of gambling being a source of crime or disorder, being associated with crime or disorder or being used to support crime. Also ensuring that gambling is conducted in a fair and open way and the protection of children or other vulnerable persons from being harmed or exploited by gambling.

A third representation was received on 18th October 2022 from an interested party. The representation related to the prevention of gambling being a source of crime or disorder, being associated with crime or disorder or being used to support crime. Also ensuring the protection of children or other vulnerable persons from being harmed or exploited by gambling.

The Merkur Slots representatives and their barrister were given the opportunity to address the Sub-Committee and answer questions from Members.

All parties present were then given the opportunity to sum up their positions and make any final comments.

The Sub-Committee received legal advice from the Legal Adviser to the Sub-Committee in the presence of all those present and were advised of the options available to them in making their decision. The Sub-Committee were also advised of the relevant policy and statutory guidance that needed to be taken into account when making their decision.

In reaching their decision, Members felt they should deliberate in private on the basis that this was in the public interest, and as such outweighed the public interest of their deliberation taking place with the parties represented present, in accordance with the Gambling Act 2005 Regulations.

The Chair announced that the decision and reasons would be publicly announced in writing within five working days. The Chair informed the meeting that the Legal Adviser to the Sub-Committee would be called back to give

advice on the wording of the decision.

The Chair then informed the meeting that all but the Democratic Support Officers should withdraw from the room. The Sub-Committee then deliberated in private to consider their decision. The Sub-Committee recalled the Legal Adviser to the Sub-Committee to give advice on the wording of the decision.

RESOLVED:

That the gambling premises license be GRANTED in accordance with section 153 of the Gambling Act 2005, subject to the mandatory conditions, the default conditions and the conditions proposed by Merkur Slots Ltd, as detailed in Appendix C of the officers report.

REASONS FOR THE DECISION

Members heard that the premises was previously a Pizza Hut and has been empty since October 2020. It sits in a large parade of shops in a pedestrianized area of the city centre. There is a wide variety of retail premises in this area with some open 24-hrs a day and some with residential properties above. There are a number of premises licensed under the Gambling Act 2005 including two Shipley's Slots Bingo Premises which are open 24-hrs a day, seven days a week.

Section 153 of the Gambling Act 2005 places a legal duty on the Council as a Licensing Authority to "aim to permit the use of premises for gambling" in so far Members think it (a) in accordance with any relevant Code of Practice issued by the Gambling Commission (b) in accordance with any relevant Guidance issued by the Gambling Commission (c) reasonably consistent with the licensing objectives and (d) in accordance with the Licensing Authority's Statement of Licensing Principles.

This 'aim to permit' principle is explained at paragraph 1.20 of the Gambling Commission Guidance: "*The effect of this duty is that both the Commission and licensing authorities must approach their functions in a way that seeks to regulate gambling by using their powers, for example, powers to attach conditions to licenses, to moderate its impact on the licensing objectives rather than by starting out to prevent it altogether.*"

Members considered this matter on its individual merits on the evidence considering matters related to gambling and the licensing objectives.

Three written representations were received against the application from local businesses none of whom attended the hearing. Members took their written representations into account in their deliberations. The representations were based on the first licensing objective of preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime, and the third licensing objective of protecting children and other vulnerable persons from being harmed or exploited by gambling. No representations were received based on the second licensing objective to

suggest that gambling would be conducted by Merkur Slots Uk Ltd in anything other than a fair and open way.

The representations detailed that the premises is in an area of the city which is associated with crime and disorder (anti-social behaviour) in addition to being an area where many homeless people, and vulnerable people who are affected by drugs and/or alcohol congregate. They suggested that the premises “will not in the specific circumstances of this application, protect children and other vulnerable persons from being harmed or exploited by gambling.”

In so far as the representations might be taken in their reference to the large number of premises licensed for gambling in the immediate area, as an implied representation to there being no demand for additional licensed premises, that was not a relevant consideration for Members. Neither were those parts of the representations which suggested an additional licensed premises would have a negative effect on the City’s image and that the area deserved to be a “genuine retail area”.

Members were impressed with the written application presented by Merkur Slots Uk Ltd which included witness statements from Amanda Kiernan (Head of Compliance), Steve Ambrose (Operations Director), Nigel Davis (Head of Gaming Machines) and Wanda Kidd (Leicester Area Manager). Also included were details of the Company’s Operational Management Plan and Security Measures and its Social Responsibility, Operational Compliance & Training Documents together with Covert Inspection Reports for some of its already licensed premises across the country. Each case must be dealt with on its own merits and Merkur Slots Uk Ltd additionally provided a Local Area Risk Assessment together with an Observation Report of the Haymarket area. The documentation allowed Members to understand the Company’s method of operation generally and how it would operate in particular at these premises in answer to the representations regarding the licensing objectives made by the three local businesses.

In light of its Local Area Risk Assessment Merkur Slots Uk Ltd had proposed conditions which would be additional to the mandatory and default conditions in the event a Licence was granted. The conditions relate to the provision of a comprehensive CCTV system; the display of Notices that a CCTV system is in operation; the keeping of an Incident Log; the operation of a Think 25 proof of age scheme; the display of signage of the operation of the proof of age scheme; the refusal of admission to people under the influence of alcohol or drugs; participation in any local Betwatch scheme.

Members were assisted in advance by inclusion in the papers of a Skeleton Argument from Mr Philip Kolvin KC.

At the hearing, Members heard from Mr Kolvin who in his submissions again dealt with the objections raised by the three local businesses under the licensing objectives. The presence of Gill Clulow (Internal Auditing), Wanda Kidd and Nigel Davis also enabled Member’s questions to be dealt with.

Members noted that Merkur Slots Uk Ltd holds a Bingo Operating Licence granted by the Gambling Commission (a prerequisite for a Bingo Premises Licence to be issued). It is part of a group which operates a national estate of licensed bingo premises holding over 220 licenses across the country and it has an unblemished regulatory record. Members noted the nature of high street bingo premises when compared with other gambling premises such as betting offices, the Company's operating procedures, its existing Bingo Premises Licences for two other premises in Leicester, the three Shipley's Slots premises in the vicinity of the proposed site, two of which trade 24 hours daily, and the absence of any representations against the application from Responsible Authorities. Members also noted that whilst by law, licensed Bingo Premises can permit under 18s to the premises and can also apply for a Premises Licence under the Licensing Act 2003, neither of those two scenarios applied here. All of the premises operated by Merkur Slots Uk Ltd are adult only and the Company operates a Think 25 Proof of Age Scheme. In addition, the Company will not seek an authorization to supply alcohol on the premises and does not allow individuals who are under the influence of alcohol or drugs to enter its premises.

The Gambling Commission Guidance details at paragraph 5.31: "*Licensing authorities should not turn down applications for premises licenses where relevant objections can be dealt with through the use of conditions.*" Members felt that the representations against the application, in so far as they were relevant, were dealt with where necessary by the conditions on which the Licence has been granted

18. ANY OTHER URGENT BUSINESS

There being no other Items of urgent business, the meeting closed at 11:57am.